

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

STEPHANIE JOHNSON,

Plaintiff,

v.

Case No. 23-CV-543

JAMES LIUKONEN,

Defendant.

ORDER

This matter comes before the court on the defendant's motion to compel (ECF No. 15) filed on November 8, 2023. The parties' Rule 26(a) disclosures were due on August 4, 2023 (ECF No. 13), but plaintiff did not timely provide them. After multiple unsuccessful attempts to communicate with plaintiff over email regarding the initial disclosures, defendant's counsel moved the court for an order requiring the plaintiff to provide the initial disclosures, as well as an order requiring the plaintiff to pay the costs associated with filing the motion pursuant to Fed. R. Civ. P. 37(a)(5)(A). (ECF No. 15 at 2.)

Plaintiff responded on November 29, 2023, explaining that plaintiff's counsel had not seen the emails from defendant's counsel regarding the initial disclosures. (ECF No.

16 at 2.) Plaintiff also stated that the disclosures were provided on November 20, 2023 (*Id.*), which defendant confirmed (ECF No. 17 at 1.) Because the information sought in the motion to compel has been provided, the court will dismiss the motion as moot.

Under Fed. R. Civ. P. 37(a)(5)(A), if discovery requested in a motion to compel is provided after the motion is filed, “the court must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees.” The court does not find that plaintiff's failure to comply was substantially justified or that other circumstances make an award of expenses unjust. *See* Fed. R. Civ. P. 37(a)(5)(ii) and (iii). As such, the court awards defendant its reasonable attorney's fees and expenses in preparing the motion.

IT IS THEREFORE ORDERED that the defendant's motion to compel (ECF No. 15) is **dismissed as moot**. It is further ordered that the defendant shall submit its expenses to the court no later than **December 14, 2023**. The plaintiff may respond no later than **December 21, 2023**.

Dated at Milwaukee, Wisconsin this 7th day of December, 2023.


WILLIAM E. DUFFIN
U.S. Magistrate Judge